



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 480 OF 2020 (MV-D)

BETWEEN:

THE NATIONAL INSURANCE COMPANY LTD.,
2ND FLOOR DR.NANJAPPA ROAD,
UNITED SHOPPING COMPLEX,
COIMBATORE, TAMILNADU STATE.

THROUGH ITS REGIONAL OFFICE,
NATIONAL INSURANCE CO., LTD.,
NO.144, SUBHARAM COMPLEX,
M.G.ROAD,
BENGALURU.
REP BY ITS ASSISTANT MANAGER
SMT.SANDHYA RANI.

...APPELLANT

(BY SRI. SEETHA RAMA RAO B.C., ADVOCATE AND
SRI. ANUP SEETHARAM RAO., ADVOCATE)

AND:

1. SRI. DODDAYYA,
AGED ABOUT 63 YEARS,
S/O GURUVA,
SINCE DECEASED
R2 TO R7 ARE THE LRS
OF DECEASED R1.
HENCE, THE R2 TO R7 TO BE
TREATED AS LRS OF DECEASED R1.
2. SMT. MONAMMA,
AGED ABOUT 61 YEARS,
W/O SRI DODDAYYA,

Digitally
signed by
REKHA R
Location:
High Court
of Karnataka



3. SRI. JAGADEESH,
AGED ABOUT 36 YEARS,
S/O SRI DODDAYYA,
4. SRI. SURESH KUMAR,
AGED ABOUT 25 YEARS,
S/O SRI DODDAYYA,
5. MRS. BHARATHI,
AGED ABOUT 39 YEARS,
W/O SRI DODDAYYA,
6. MRS. SAVITHA
AGED ABOUT 33 YEARS,
D/O SRI DODDAYYA,
7. MRS.SUREKHA,
AGED ABOUT 29 YEARS,
D/O SRI DODDAYYA,

ALL ARE RESIDING AT
D.NO.4-8 (1), KODANGE HOUSE, K.B.S. 62,
THOKUR, MANGALURU TALUK.

8. MR. HASANABBA,
AGED ABOUT 48 YEARS,
S/O MR.SAYYED,
RESIDING AT RAJKATTE HOUSE,
PADUKODI KULLOOR POST,
MANGALURU TALUK
(OWNER OF BUS NO.KA.19/AC-4849)
9. THE NEW INDIA ASSURANCE CO. LTD
RAMBHAVAN COMPLEX,
KODIALBAIL, MANGALURU
(INSURER OF BUS NO.KA.19/AC-4849)
10. SRI.MURUGAYYA
AGED ABOUT 52 YEARS,
S/O SRI. VELU SWAMY,



OCC: MANAGER, NIRMALA
CONSTRUCTION COMPANY
NO.149, 12TH CROSS,
J.P.NAGAR, BENGLAURU.

...RESPONDENTS

(BY SRI. SRI. V. RAJASHEKARA REDDY., ADVOCATE FOR R9,
VIDE ORDER DATED:24.11.2023 R2 TO R7
ARE TREATED AS LRS OF R1, R2, R3, R4, R5, R6, R7, R8
ARE SERVED AND UNREPRESENTED,
VIDE ORDER DATED:27.03.2024
NOTICE TO R10 IS HELD SUFFICIENT)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:19.09.2019,
PASSED IN MVC NO.380/2016, ON THE FILE OF THE MACT AND
III-ADDITIONAL SENIOR CIVIL JUDGE AND ACJM JUDGE,
MANGALURU, D.K., AWARDED COMPENSATION OF
RS.9,68,000/- WITH INTEREST AT 6 PERCENT P.A., FROM THE
DATE OF PETITION TILL THE DATE OF ITS REALIZATION.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

The appeal is by insurer of Earth drilling machine
HDD is calling the question, the liability fastened on it at
the rate of 25% of the compensation, arising out of the
judgment and award dated 19.09.2019 in
MVC.No.380/2016 passed by the Motor Accident Claims
Tribunal and III Additional Senior Civil Judge and ACJM,
Mangaluru D.K.('Tribunal' for short).



2. The parties are referred to as per their rankings before the Tribunal.

3. Heard Sri. Anup Seetharam Rao, learned counsel for Sri. Seetha Rama Rao B.C, learned counsel appearing for the appellant; Sri. V.Rajashekara Reddy, learned counsel appearing for respondent No.9; vide order dated 24.11.2023 respondent Nos.2 to 7 are treated as legal representatives of respondent No.1; R2, R3, R4, R5, R6, R7, R8 are served and unrepresented.; vide order dated 27.03.2024, notice to respondent No.10 is held sufficient.

4. Sri. Anup Seetharam Rao, on short point argued the matter that the Tribunal has committed grave error in law and on facts in making the Insurer liable to pay 25% of the compensation assessed. The Tribunal has failed to consider the policy issued by the appellant, is in respect of horizontal directional drilling machine and not in respect of a motor vehicle. In the circumstances, the Tribunal ought to have dismissed the claim petition under Section 166 of



the Motor Vehicles Act against the appellant on this sole ground, as the liability is not coming within Section 147 of the MV Act. The issue which was framed on negligence is framed only against the driver, there is no issue of negligence on the insured. However, while answering the issue, the Tribunal erred in holding that there is a rash and negligent parking of the earth drilling machine which is also responsible for the accident and fastened the liability at 25% on the insurer of the said machine. He further submits that the road wherein the accident has occurred is 20 feet wide road and was under repair for infrastructure, and both the rider of the motorcycle and driver of the bus were responsible for the accident. With this he sought to allow the appeal.

5. Though Sri.V.Rajashekara Reddy, learned counsel for respondent No.9-Insurer of the bus tried to persuade this Court on the fact that it is due to the wrong parking of the machine, the motorcycle rider who was coming in the opposite direction in a rash and negligent



manner tried to avoid any collusion with the machine, swerved on the right side and collided with the bus. In the circumstances, since the machine was parked without observing any traffic rules, is primarily responsible for the accident, which has been properly considered by the Tribunal, and the award passed does not call for any interference at the hands of this Court. With this he sought to dismiss the appeal.

6. On consideration of rival submission, the only point that would arise for consideration upon the rival submission is:

Whether the Tribunal is right in fastening 25% liability on the insurer of the earth drilling machine?

7. My answer to the above point for consideration is in Negative for the following:



REASONS

8. Admittedly, the policy issued was not under Section 147 of the MV Act, it is a machine policy and not a motor policy. The road width was 20 feet wide and repair for the infrastructure was going on, which was also visible in the traffic. The accident occurred at 07.00 p.m. If both the rider of the motorcycle as well as the driver of the bus having seen the earth drilling machine stationed for infrastructural work, were to be little circumspect and cautious, would have avoided the accident, which is not forthcoming in the case on hand. The Tribunal has failed to consider this aspect of the matter, so also the policy which is issued with respect to the machine. In these circumstances, the liability of 25% fastened on the earth drilling machine is misplaced. Accordingly, the order passed by the Tribunal requires to be answered in favour of the appellate-insurer and against the insurer of the bus.

9. For the following reasons, this Court proceeds to pass the following:



ORDER

- i) The appeal is ***allowed***.
- ii) The judgment and award dated 19.09.2019 in MVC.No.380/2016 passed by the Motor Accident Claims Tribunal and III Additional Senior Civil Judge and ACJM, Mangaluru D.K., is modified, the entire liability is fastened on the insurer-respondent No.9.
- iii) The insurer-respondent No.9 shall deposit 25% of the amount fastened on the appellant-insurer within six weeks from the date of receipt of copy of this order along with 75% fastened on it, if not already deposited.
- iv) The amount in deposit before this Court in this appeal shall be remitted by way of digital remittance in favour of the appellant on proper identification.



- v) The trial Court record, secured if any, shall be transmitted forthwith to the Tribunal.
- vi) Upon deposit, the entire amount shall be released in favour of claimants as per the apportionment order.

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 2
ct-vn